

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): James C. Weaver 58580 Attorney 7515 Cabrillo Avenue La Jolla, CA 92037 TELEPHONE NO: (858) 337-2156 FAX NO. (Optional): E-MAIL ADDRESS (Optional): jcw@windanseabeach.com ATTORNEY FOR (Name): OZEROFF	FOR COURT USE ONLY FILED CIVIL BUSINESS OFFICE CENTRAL DIVISION 2019 MAR 29 P 2:20 CLERK-SUPERIOR COURT SAN DIEGO COUNTY, CA
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 West Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego, Ca 92101 BRANCH NAME: Hall of Justice	
PLAINTIFF: KIMBERLY OZEROFF DEFENDANT: BIRD RIDES, INC.; REYES HAYDEE,	
<input checked="" type="checkbox"/> DOES 1 TO <u>35</u>	
COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input checked="" type="checkbox"/> MOTOR VEHICLE <input type="checkbox"/> OTHER (specify): <input checked="" type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify):	
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited	CASE NUMBER: 37-2019-00016679-CU-PA-CTL

1. Plaintiff (name or names): **KIMBERLY OZEROFF**

alleges causes of action against defendant (name or names):
BIRD RIDES, INC.; REYES HAYDEE

2. This pleading, including attachments and exhibits, consists of the following number of pages: **6**

3. Each plaintiff named above is a competent adult

a. ☐ except plaintiff (name):

- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
- (5) ☐ other (specify):

b. ☐ except plaintiff (name):

- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
- (5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

SHORT TITLE:

OZEROFF V. BIRD

CASE NUMBER:

4. ☐ Plaintiff (name):

is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. ☒ except defendant (name): BIRD RIDES, INC.(1) ☐ a business organization, form unknown(2) ☒ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):c. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):b. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):d. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. ☒ Doe defendants (specify Doe numbers): 15 to 25 were the agents or employees of other named defendants and acted within the scope of that agency or employment.b. ☒ Doe defendants (specify Doe numbers): 26 to 25 are persons whose capacities are unknown to plaintiff.7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

a. ☐ at least one defendant now resides in its jurisdictional area.b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.d. ☐ other (specify):9. ☐ Plaintiff is required to comply with a claims statute, anda. ☐ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):

SHORT TITLE:

CASE NUMBER:

OZEROFF V. BIRD

10. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*):

- a. ☒ Motor Vehicle
- b. ☒ General Negligence
- c. ☐ Intentional Tort
- d. ☒ Products Liability
- e. ☐ Premises Liability
- f. ☐ Other (*specify*):

11. Plaintiff has suffered

- a. ☒ wage loss
- b. ☒ loss of use of property
- c. ☒ hospital and medical expenses
- d. ☒ general damage
- e. ☒ property damage
- f. ☒ loss of earning capacity
- g. ☐ other damage (*specify*):

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
- b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
- (2) ☐ punitive damages

The amount of damages is (*in cases for personal injury or wrongful death, you must check (1)*):

- (1) ☒ according to proof
- (2) ☐ in the amount of: \$

15. ☒ The paragraphs of this complaint alleged on information and belief are as follows (*specify paragraph numbers*):

Products Liability

Date: March 28, 2019

James C. Weaver

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE:

CASE NUMBER:

Ozeroff v. Bird Rides, Inc.

FIRST

(number)

CAUSE OF ACTION—Motor Vehicle

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

Plaintiff (name): Kimberly Ozeroff

MV- 1. Plaintiff alleges the acts of defendants were negligent; the acts were the legal (proximate) cause of injuries and damages to plaintiff; the acts occurred

on (date): December 8, 2018

at (place):

The ocean board walk at Mission Beach, San Diego, California near Pismo Court.

MV- 2. DEFENDANTS

a. ☒ The defendants who operated a motor vehicle are (names):

Reyes Haydee

☒ Does 1 to 5b. ☒ The defendants who employed the persons who operated a motor vehicle in the course of their employment are (names):☒ Does 6 to 9c. ☒ The defendants who owned the motor vehicle which was operated with their permission are (names):

Bird Rides, Inc.

☒ Does 10 to 13d. ☐ The defendants who entrusted the motor vehicle are (names):☒ Does 14 to 16e. ☒ The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):☒ Does 17 to 19f. ☐ The defendants who are liable to plaintiffs for other reasons and the reasons for the liability are☒ listed in Attachment MV-2f ☐ as follows:

Bird Rides, Inc.

☒ Does 20 to 35

Page 4

SHORT TITLE:

OZEROFF V. BIRD RIDES, INC.

CASE NUMBER:

Second

(number)

CAUSE OF ACTION—Products Liability

Page

5ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

Plaintiff (name):

Prod. L-1. On or about (date): December 8, 2018

plaintiff was injured by the following product:

Plaintiff rented a Bird Scooter to ride on the boardwalk in Mission Beach, San Diego.

Prod. L-2. Each of the defendants knew the product would be purchased and used without inspection for defects.

The product was defective when it left the control of each defendant. The product at the time of injury was being

☒ used in the manner intended by the defendants.☐ used in the manner that was reasonably foreseeable by defendants as involving a substantial danger not readily apparent. Adequate warnings of the danger were not given.

Prod. L-3. Plaintiff was a

☐ purchaser of the product.☒ user of the product.☐ bystander to the use of the product.☐ other (specify):

PLAINTIFF'S INJURY WAS THE LEGAL (PROXIMATE) RESULT OF THE FOLLOWING:

Prod. L-4. ☐ **Count One—Strict liability** of the following defendants whoa. ☒ manufactured or assembled the product (names):

Bird Rides, Inc.

☒ Does 21 to 23b. ☒ designed and manufactured component parts supplied to the manufacturer (names):

Bird Rides, Inc.

☒ Does 24 to 25c. ☒ sold the product to the public (names):

Bird Rides, Inc.

☒ Does 26 to 28Prod. L-5. ☒ **Count Two—Negligence** of the following defendants who owed a duty to plaintiff (names):

Bird Rides, Inc.

☒ Does 29 to 31Prod. L-6. ☒ **Count Three—Breach of warranty** by the following defendants (names):

Bird Rides, Inc.

☒ Does 32 to 35a. ☒ who breached an implied warrantyb. ☐ who breached an express warranty which was☐ written ☐ oralProd. L-7. ☐ The defendants who are liable to plaintiffs for other reasons and the reasons for the liability are☐ listed in Attachment-Prod. L-7 ☐ as follows:

SHORT TITLE:

CASE NUMBER:

OZEROFF V. BIRD RIDES, INC.

ATTACHMENT (Number): MV-2f

(This Attachment may be used with any Judicial Council form.)

On or about December 8, 2018 plaintiff Ozeroff leased a Bird Scooter to ride on the board walk at Mission Beach, San Diego.

She was riding around 6:50 P.M., when it was dark. The outdoor lighting on the board walk was broken at one post and faint at a second post.

The headlamp on her Bird Scooter was faint.

She was riding south and had just passed Pismo Court when she collided with another Bird Scooter driven by defendant Haydee. Haydee was with a couple of other Bird Scooter riders and the lights on their Bird Scooters were insufficient for the plaintiff to see them. Haydee and the other riders were blocking plaintiff's path of travel.

Just prior to the collision, plaintiff saw the other Bird Scooters but was unable to stop her Bird Scooter with her brakes, and her Bird Scooter glanced off a hole in the cement board walk just before the collision.

The City of San Diego allowed the hole to go without repair for a long period of time.

The City of San Diego allowed the street lights to become inoperable.

The Bird Scooters of all parties had insufficient head lamps.

The Bird Scooter of plaintiff had inadequate brakes.

She injured her whole body and fractured her right wrist. She was knocked unconscious from the fall and received several stitches to her left eye brow.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 6 of 6

(Add pages as required)